

Introduced by Senator Negrete McLeod

February 20, 2007

An act to amend Section 25503.6 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

SB 351, as introduced, Negrete McLeod. Alcoholic beverages: advertising.

Existing law generally prohibits a manufacturer of alcoholic beverages and a winegrower from paying, crediting, or compensating a retailer for advertising or paying or giving anything of value for the privilege of placing a sign or advertisement with a retail licensee. It authorizes, as an exception, the holder of a winegrower's license, a California winegrower's agent, a beer manufacturer, a distilled spirits rectifier, a distilled spirits manufacturer, or a distilled spirits manufacturer's agent, to purchase advertising space and time from, or on behalf of, an on-sale retail licensee, under certain conditions, if the on-sale retail licensee is the owner, manager, agent of the owner, assignee of the owner's advertising rights, or major tenant of specified facilities.

This bill would expand the exceptions to existing law to allow beer manufacturers, winegrowers, distilled spirits rectifiers, distilled spirits manufacturers, or distilled spirits manufacturer's agents to purchase advertising space and time from, or on behalf of, on-sale retail licensees at specified facilities for a designated driver program operated by, or funded by, the purchaser at the specified facility. This bill would provide that any advertising space and time purchased for the designated driver program would be in addition to advertising purchased under the existing exceptions.

Existing law makes it a misdemeanor for a licensee, subject to these provisions, to violate existing provisions relating to the purchase of that advertising space or time.

This bill would impose a state-mandated local program by changing the definition of an existing crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25503.6 of the Business and Professions
2 Code is amended to read:
3 25503.6. (a) Notwithstanding any other provision of this
4 chapter, a beer manufacturer, the holder of a winegrower's license,
5 a distilled spirits rectifier, a distilled spirits manufacturer, or
6 distilled spirits manufacturer's agent may purchase advertising
7 space and time from, or on behalf of, an on-sale retail licensee
8 subject to all of the following conditions:
9 (1) The on-sale licensee is the owner, manager, agent of the
10 owner, assignee of the owner's advertising rights, or the major
11 tenant of the owner of any of the following:
12 (A) An outdoor stadium or a fully enclosed arena with a fixed
13 seating capacity in excess of 10,000 seats located in Sacramento
14 County or Alameda County.
15 (B) A fully enclosed arena with a fixed seating capacity in
16 excess of 18,000 seats located in Orange County or Los Angeles
17 County.
18 (C) An outdoor stadium or fully enclosed arena with a fixed
19 seating capacity in excess of 8,500 seats located in Kern County.
20 (D) An exposition park of not less than 50 acres that includes
21 an outdoor stadium with a fixed seating capacity in excess of 8,000
22 seats and a fully enclosed arena with an attendance capacity in
23 excess of 4,500 people, located in San Bernardino County.
24 (E) An outdoor stadium with a fixed seating capacity in excess
25 of 10,000 seats located in Yolo County.

1 (F) An outdoor stadium and a fully enclosed arena with fixed
2 seating capacities in excess of 10,000 seats located in Fresno
3 County.

4 (G) An athletic and entertainment complex of not less than 50
5 acres that includes within its boundaries an outdoor stadium with
6 a fixed seating capacity of at least 8,000 seats and a second outdoor
7 stadium with a fixed seating capacity of at least 3,500 seats located
8 within Riverside County.

9 (H) An outdoor stadium with a fixed seating capacity in excess
10 of 1,500 seats located in Tulare County.

11 (I) A motorsports entertainment complex of not less than 50
12 acres that includes within its boundaries an outdoor speedway with
13 a fixed seating capacity of at least 50,000 seats, located within San
14 Bernardino County.

15 (J) An exposition park, owned or operated by a bona fide
16 nonprofit organization, of not less than 400 acres with facilities
17 including a grandstand with a seating capacity of at least 8,000
18 people, at least one exhibition hall greater than 100,000 square
19 feet, and at least four exhibition halls, each greater than 30,000
20 square feet, located in the City of Pomona or the City of La Verne
21 in Los Angeles County.

22 (K) An outdoor soccer stadium with a fixed seating capacity of
23 at least 25,000 seats, an outdoor tennis stadium with a fixed
24 capacity of at least 7,000 seats, an outdoor track and field facility
25 with a fixed seating capacity of at least 7,000 seats, and an indoor
26 velodrome with a fixed seating capacity of at least 2,000 seats, all
27 located within a sports and athletic complex built before January
28 1, 2005, within the City of Carson in Los Angeles County.

29 (2) The outdoor stadium or fully enclosed arena described in
30 paragraph (1) is not owned by a community college district.

31 (3) The advertising space or time is purchased only in connection
32 with the events to be held on the premises of the exposition park,
33 stadium, or arena owned by the on-sale licensee. With respect to
34 an exposition park as described in subparagraph (J) of paragraph
35 (1) that includes at least one hotel, the advertising space or time
36 shall not be displayed on or in any hotel located in the exposition
37 park, or purchased in connection with the operation of any hotel
38 located in the exposition park.

39 (4) The on-sale licensee serves other brands of beer distributed
40 by a competing beer wholesaler in addition to the brand

1 manufactured or marketed by the beer manufacturer, other brands
2 of wine distributed by a competing wine wholesaler in addition to
3 the brand produced by the winegrower, and other brands of distilled
4 spirits distributed by a competing distilled spirits wholesaler in
5 addition to the brand manufactured or marketed by the distilled
6 spirits rectifier, the distilled spirits manufacturer or the distilled
7 spirits manufacturer's agent that purchased the advertising space
8 or time.

9 (b) Any purchase of advertising space or time pursuant to
10 subdivision (a) shall be conducted pursuant to a written contract
11 entered into by the beer manufacturer, the holder of the
12 winegrower's license, the distilled spirits rectifier, the distilled
13 spirits manufacturer, or the distilled spirits manufacturer's agent
14 and the on-sale licensee.

15 (c) Any beer manufacturer or holder of a winegrower's license,
16 any distilled spirits rectifier, any distilled spirits manufacturer, or
17 any distilled spirits manufacturer's agent who, through coercion
18 or other illegal means, induces, directly or indirectly, a holder of
19 a wholesaler's license to fulfill all or part of those contractual
20 obligations entered into pursuant to subdivision (a) or (b) shall be
21 guilty of a misdemeanor and shall be punished by imprisonment
22 in the county jail not exceeding six months, or by a fine in an
23 amount equal to the entire value of the advertising space, time, or
24 costs involved in the contract, whichever is greater, plus ten
25 thousand dollars (\$10,000), or by both imprisonment and fine. The
26 person shall also be subject to license revocation pursuant to
27 Section 24200.

28 (d) Any on-sale retail licensee, as described in subdivision (a),
29 who, directly or indirectly, solicits or coerces a holder of a
30 wholesaler's license to solicit a beer manufacturer, a holder of a
31 winegrower's license, a distilled spirits rectifier, a distilled spirits
32 manufacturer, or a distilled spirits manufacturer's agent to purchase
33 advertising space or time pursuant to subdivision (a) or (b) shall
34 be guilty of a misdemeanor and shall be punished by imprisonment
35 in the county jail not exceeding six months, or by a fine in an
36 amount equal to the entire value of the advertising space or time
37 involved in the contract, whichever is greater, plus ten thousand
38 dollars (\$10,000), or by both imprisonment and fine. The person
39 shall also be subject to license revocation pursuant to Section
40 24200.

1 (e) For the purposes of this section, “beer manufacturer” includes
2 any holder of a beer manufacturer’s license, any holder of an
3 out-of-state beer manufacturer’s certificate, or any holder of a beer
4 and wine importer’s general license.

5 (f) (1) *Notwithstanding any other provision of this chapter, a*
6 *beer manufacturer or holder of a winegrower’s license, a distilled*
7 *spirits rectifier, a distilled spirits manufacturer, or a distilled*
8 *spirits manufacturer’s agent may purchase advertising space and*
9 *time from, or on behalf of, an on-sale retail licensee described in*
10 *paragraph (1) of subdivision (a), for a designated driver program*
11 *operated by, or funded by, the beer manufacturer or holder of a*
12 *winegrower’s license, distilled spirits rectifier, distilled spirits*
13 *manufacturer, or distilled spirits manufacturer’s agent that is*
14 *operated at the on-sale retail licensee’s premises.*

15 (2) *Advertising space and time purchased under this subdivision*
16 *is in addition to any advertising space and time purchased under*
17 *subdivision (a).*

18 SEC. 2. No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 the only costs that may be incurred by a local agency or school
21 district will be incurred because this act creates a new crime or
22 infraction, eliminates a crime or infraction, or changes the penalty
23 for a crime or infraction, within the meaning of Section 17556 of
24 the Government Code, or changes the definition of a crime within
25 the meaning of Section 6 of Article XIII B of the California
26 Constitution.